

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

MARY R. WONG,

Defendant.

CASE NO. 8:09CR328

MEMORANDUM AND ORDER

This matter is before the Court on the Defendant's appeal (Filing No. 25) from the Magistrate Judge's oral order (Filing No. 18) denying defense counsel's motion to withdraw and for appointment of other counsel under the Criminal Justice Act, 18 U.S.C. § 3006A (Filing No. 15).

Under 28 U.S.C. § 636(b)(1)(A), the court has reviewed the order from which this appeal has been taken. In an appeal from a magistrate judge's order on a pretrial matter within § 636(b)(1)(A), a district court may set aside any part of the magistrate judge's order shown to be clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A).

Judge Thalken held an in camera evidentiary hearing, during which he inquired into the details of the Defendant's assets and liabilities. The evidence consists of the Defendant's fee arrangement with counsel and her financial affidavit completed on the date of the evidentiary hearing. It appears that the Defendant has substantial assets in an amount that exceed the estimated amount that present counsel would require if she were to go to trial, e.g., stock estimated at three times the amount that counsel might require; a 25% membership in a corporation that is in the process of being liquidated; a baseball card

collection estimated by the Defendant to be worth 20% of the amount that might be required by counsel; a luxury vehicle, albeit with a loan against slightly more than 50% of its value; and a home that is approximately 65% mortgaged. While the Defendant has liabilities, they appear to be of the type that can be met through monthly payments. Counsel argued orally at the hearing and in the brief accompanying the appeal (Filing No. 26) that secured creditors other than those listed in the Defendant's financial affidavit (Ex. 2) would be entitled to any liquidated amount of the Defendant's assets, and he also referenced a pending civil suit against the Defendant. However, no such evidence was presented.

For these reasons, the Court agrees with Judge Thalken's reasoning.

Accordingly,

IT IS ORDERED:

1. The Defendant's appeal from the Magistrate Judge's Order (Filing No. 25) is denied; and
2. The Magistrate Judge's oral order denying defense counsel's motion to withdraw (Filing No. 18) is affirmed.

DATED this 20th day of November, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge